

AMENDING TITLE 10, UNITED STATES CODE, TO BROADEN THE AUTHORITY OF THE SECRETARIES OF THE MILITARY DEPARTMENTS TO SETTLE CERTAIN ADMIRALTY CLAIMS ADMINISTRATIVELY, AND FOR OTHER PURPOSES

JUNE 9, 1971.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DONOHUE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 8549]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8549), to amend title 10, United States Code, to broaden the authority of the Secretaries of the military departments to settle certain admiralty claims administratively, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to amend sections 4802, 7622, 9802 of title 10, section 646 of title 14 of the United States Code, and section 9 of the Suits in Admiralty Act so as to provide authority for the administrative settlement of admiralty claims which might give rise to a suit within the full range of admiralty jurisdiction now existing in the Federal courts under the Suits in Admiralty Act. The bill would further amend those sections to authorize each Secretary to settle claims for salvage and towage of property other than and in addition to vessels under the jurisdiction of his department.

The bill would amend sections 4804, 7365, and 9804 of title 10 to permit a Secretary of a military department to settle claims by the United States for salvage service other than, and in addition to salvage services rendered to vessels. Sections 4804 and 9804 are also amended to authorize the Secretary of the Army and the Secretary of the Air Force to delegate the authority to settle such claims as limited in these sections, so that their authority will be brought into substantial conformity with that of the Secretary of the Navy in this respect.

The proposed legislation would delete from the Army and Air Force settlement sections present wording to the effect that the settlement authority of the Secretary concerned is under the direction of the Secretary of Defense. The Secretary of Defense has this authority without specific provision in these particular sections.

I ANALYSIS OF THE BILL

Section 1.—Section 1 of the bill is composed of eight numbered paragraphs. Paragraph (1) amends subsection (a) of section 4802 of title 10. The section heading is amended to read "Admiralty claims against the United States," to better reflect the full scope of the section. In the body of the subsection the word "admiralty" is inserted prior to the word "claims" to describe the claims covered by the subsection. Paragraph (1) of the subsection now provides authority for the settlement of admiralty claims for damage caused by vessels of the Army, and it is amended by the bill to add authority for settlement of admiralty claims for damage caused "by other property under the jurisdiction of the Army." Paragraph (2) of the subsection now provides authority to settle claims for compensation for towage or salvage service rendered Army vessels, and it is amended by the bill to add authority to settle claims for towage and salvage service rendered to other property under Army jurisdiction. A new paragraph (3) is added to authorize settlement of admiralty claims based on damage caused by a maritime tort committed by any agent or employee of the Department of the Army or by property under the jurisdiction of the Department of the Army.

Paragraph (2) of section 1 of the bill reflects the change made to the section heading of section 4802 by providing for an amendment to the chapter analysis of chapter 451 of title 10 inserting the same language.

Paragraph (3) of section 1 of the bill amends section 4804 by revising the existing language and designating it subsection (a) and adding a new subsection (b). The present language authorizes the Secretary of the Army to settle claims of the United States for salvage services performed by the Army "for any vessel." The amendment is to broaden the authority by a deletion of the words "for any vessel" so that the authority will not be limited only to claims for salvage of vessels but may also cover claims involving the salvage of other property. New paragraph (b) of section 4804 added by the bill would authorize the Secretary of the Army to delegate his authority under subsection (a) when the amount to be received by the United States is not more than \$10,000.

Paragraph (4) of section 1 of the bill amends section 7365 of title 10 concerning settlement of claims by the United States for salvage services rendered by the Department of the Navy "to any vessel" by deleting those words. This is a parallel amendment to the amendments making the same deletion from sections 4804 and 9804 concerning the Army and the Air Force, and as has been noted, the purpose is to provide the authority to settle such claims will include claims for the salvage of other property in addition to vessels.

Paragraph (5) of section 1 of the bill amends subsection (a) of section 7622 of title 10 concerning the Navy to include parallel

language to that added to section 4802 by the bill. Again the words "and admiralty" are inserted prior to the word "claim" to indicate the type of claims covered by the subsection. Paragraph (1) of the subsection now concerning claims for damage caused by a vessel in the naval service is amended to cover claims caused "*** by other property under the jurisdiction of the Department of the Navy * * *". Paragraph (2) of subsection (a) of section 7622 concerning claims for compensation for towage and salvage service rendered to a vessel in the naval service is amended to include claims for towage and salvage service to "*** other property under the jurisdiction of the Department of the Navy * * *". The bill adds a new paragraph (3) to the subsection providing the authority to settle claims for damage caused by a maritime tort committed by any agent or employee of the Department of the Navy or by property under the jurisdiction of the Department of the Navy.

Paragraph (6) amends subsection (a) of section 9802 of title 10. The section heading is amended to read "Admiralty claims against the United States" to better reflect the full scope of the section. In the body of the subsection the word "admiralty" is inserted prior to the word "claims" to describe the claims covered by the subsection. Paragraph (1) of the subsection now provides authority for the settlement of admiralty claims for damage caused by vessels of the Air Force, and it is amended by the bill to provide for settlement of admiralty claims for damage caused "by other property under the jurisdiction of the Air Force". Paragraph (2) of the subsection now provides authority to settle claims for compensation for towage or salvage service rendered Air Force vessels, and it is amended by the bill to add authority to settle claims for towage and salvage service rendered to other property under Air Force jurisdiction. A new paragraph (3) is added to authorize settlement of admiralty claims based on damage caused by a maritime tort committed by any agent or employee of the Department of the Air Force or by property under the jurisdiction of the Department of the Air Force.

Paragraph (7) of section 1 of the bill reflects the change made to the section heading of section 9802 by providing for an amendment to the chapter analysis of chapter 951 of title 10 inserting the same language.

Paragraph (8) of section 1 of the bill amends section 9804 by revising the existing language and designating it subsection (a) and adding a new subsection (b). The present language authorizes the Secretary of the Air Force to settle claims of the United States for salvage services performed by the Air Force "for any vessel." The amendment is to broaden the authority by a deletion of the words "for any vessel" so that the authority will not be limited only to claims for salvage of vessels but may also cover claims involving the salvage of other property. New paragraph (b) of section 9804 added by the bill would authorize the Secretary of the Air Force to delegate his authority under subsection (a) when the amount to be received by the United States is not more than \$10,000.

Section 2.—Section 2 of the bill provides for a revision of the language of section 646 of title 14 of the United States Code so that the provisions of that section will include parallel language for the settlement of admiralty claims by the Secretary with authority over the Coast Guard as is provided by the bill for the Secretaries of the

military departments. The language also increases the monetary limitation fixed in the section from \$25,000 to \$100,000. The section heading of section 646 and the item in the chapter analysis of chapter 17 of title 14 are amended to use the same language used in connection with sections 4802 and 9802 of title 10; that is, "Admiralty claims against the United States."

Section 3.—Section 3 of the bill amends section 9 of the act of March 9, 1920, the Suits in Admiralty Act (41 Stat. 527; 46 U.S.C. 749) by striking the words "having control of the possession or operation of any merchant vessel". Section 9 of the Suits in Admiralty Act provides for the settlement of admiralty claims which could be the subjects of suits under sections 2, 4, 7, and 10 of the act. The amendment has the same purpose as that provided in the bill concerning the settlement of admiralty claims by the military departments and the Coast Guard and that is to make it possible for the interested departments to settle admiralty claims when the claim is of a sort for which jurisdiction is provided for an action against the United States in the Federal courts.

STATEMENT

The bill H.R. 8549 was introduced in accordance with the recommendations of an executive communication submitted to the Congress by the Department of the Navy in behalf of the Department of Defense. The provisions of the bill are identical to a bill in the 91st Congress, H.R. 16417, as it was reported by the committee and passed by the House in that Congress.

The executive communication from the Department of the Navy pointed out that the purpose of this bill is to provide the Secretary of each military department and the department in which the Coast Guard is operating with authority to settle admiralty claims for damages caused by personnel or property of his department, other than and in addition to damages caused by vessels. The bill would also authorize each Secretary to settle claims for salvage and towage of property, other than and in addition to vessels, under the jurisdiction of his department. Further, the bill would enable the Secretary of the Army and the Secretary of the Air Force to delegate their authority to settle affirmative claims for salvage services performed by their departments, bringing their statutory authority in this area into substantial conformity with the authority of the Secretary of the Navy. Section 3 of the bill would also expand the admiralty claims settlement authority available to other departments under section 9 of the Suits in Admiralty Act, chapter 95, as amended (46 U.S.C. § 749) to include departments not having control of the possession and operation of merchant vessels.

The executive communication explained that existing law authorizes the Secretary of a military department and the department in which the Coast Guard is operating to settle a claim against the United States, within certain monetary limits, for damage caused by a vessel of his department (10 U.S.C. §§ 4802, 7622, 9802; 14 U.S.C. § 646). He does not have authority to settle claims of an admiralty nature for damages caused by his departmental agents or employees or caused by property of his department other than vessels. For example, damage caused by naval longshoremen to a privately owned

vessel or damage caused by an Army crane to a private vessel would not come within the settlement authority of the Secretary concerned, since the damage was not caused by a vessel.

Claims based on damages caused by departmental agents or by property of a department fall within the admiralty jurisdiction of the Federal courts and suit is permitted in such cases under the Suits in Admiralty Act (46 U.S.C. §§ 41-752), however, the settlement authority found in sections 4802 and 9802 of title 10 is limited to claims for "damage caused by a vessel of, or in the service of" the Army in the case of section 4802 or the Air Force under section 9802. Section 7622 concerns the Navy and the settlement authority under that section is limited to claims for "damage caused by a vessel in the naval service." These sections are included in title 10 to provide the authority for the expeditious settlement of admiralty claims.

Settlements under the authority of these sections provide a means of avoiding unnecessary litigation. Settlement of this type also provides a means of eliminating unnecessary delay and expense to both the injured party and the Government. The executive communication notes that the present law is deficient in that it is not possible to settle all claims that are presently cognizable under the Suits in Admiralty Act. In 1960 the Suits in Admiralty Act was amended to clarify the jurisdiction of the district courts in these very situations. The 1960 amendment, added by the Act of September 13, 1960 (Public Law 86-770, sec. 3, 74 Stat. 912), amended section 2 of the Suits in Admiralty Act (46 U.S.C. 742) by providing that actions can be brought against the United States or a corporation owned by the United States in instances where a proceeding in admiralty could be maintained "if a private person or property were involved." This jurisdiction therefore extends to the full range of admiralty cases which might have been maintained had a private person or property been involved rather than the Government or its agents and employees or property. The legislative history of the 1960 amendment serves to emphasize this point. The Senate report (S. Rept. 1894, 86th Cong. 2d Sess.) which accompanied H.R. 5396, which was enacted as Public Law 86-770 noted that while the original Suits in Admiralty Act provided for an action against the United States in cases where an admiralty proceeding might have been maintained if privately owned vessels or cargo had been involved, it did not mention private persons and property generally. The report pointed out that litigants had difficulty in determining their rights to bring actions against the United States because of uncertainty and obscurity in the language of the law defining the jurisdiction of the courts. Accordingly, the Senate Committee recommended the amendment to section 2, of the Suits in Admiralty Act and stated concerning the revised language:

It restates in brief and simple language the now existing exclusive jurisdiction conferred on the district courts, both on their admiralty and law sides, over cases against the United States which could be sued on in admiralty if private vessels, persons, or property were involved.

While this amendment was made to section 2 of the Suits in Admiralty Act, parallel amendments were not made to sections 4802, 7622 and 9802 of title 10 so as to provide for the same authority for settlement of ad-

miralty claims by the military departments within the statutory monetary limits fixed in those sections.

With the amendments to the three sections 4802, 7622, and 9802 of title 10 and section 646 of title 14, recommended by the Navy, it will also be possible to settle or compromise admiralty claims against the United States for damage caused by property other than vessels. Several examples will serve to illustrate the nature of these claims. Damage to private vessels could be caused by the improper handling of piers, fenders or camels alongside a military pier, or by such fenders or camels while floating free in a slip or harbor after breaking loose from their moorings. A claim might result from damage attributable to Government structures surrounded by navigable waters such as artificial islands or structures which might not be lighted or properly lighted. Damage caused by negligent operation of airplanes, helicopters, and drones on navigable waters also could be included as examples of property whose use could give rise to claims. Finally the committee has been advised that it is possible that lost or sunken ordinance could cause damage to fishermen's nets or vessels and give rise to claims which could be considered under the language added by the bill.

The bill would also provide for amendments to the four sections permitting the settlement of admiralty claims for damage caused by maritime torts committed by departmental agents or employees. For example, Navy civil service personnel are employed to pilot commercial ships into and out of some harbors, as well as berthing and unberthing commercial ships at Navy installations. Should the negligence of such a pilot cause damage to the commercial ship it could not be settled under the present provisions of section 7622, but with the amendment added by this bill such a claim could be considered and settled. Another example of damage by personnel would be damage caused to a commercial ship by negligence of civil service longshoremen. Damage could also be caused to private property or a person by negligence of Government personnel operating on or from a structure which is not a vessel such as a platform for scientific observation and research or ocean data acquisition equipment. Personnel could also cause damage to a commercial ship in the operation of a gantry or shoreside operated crane or train.

As amended by the bill, sections 4802(a)(3), 7622(a)(3), and 9802(a)(3) of title 10, and section 646(a)(3) of title 14 all provide for settlement authority as to damage caused by maritime tort attributable to "property under the jurisdiction of * * * a military department." This provision is intended to provide for the authority to settle such claims as might be based on damage to property caused by the improper packaging or marking of Navy cargo. It would also cover a case where an unseaworthy cargo container or package permitted a longshoreman to fall through an outer covering and injure himself.

Of course, the examples outlined above do not cover all the fact situations which could produce potential litigation and claims which could be settled under the amendments added by the bill. They are merely intended to provide an indication of the types of claims which would be included in the scope of the proposed provisions. They also serve to emphasize the fact that there is serious deficiency in the existing provisions of the law and therefore that there is practical need for the amendments contained in this bill.

As has been noted, section 3 of the bill concerns parallel amendments to section 646 of title 14 concerning the Coast Guard as those proposed for sections 4802, 7622 and 9802 in title 10 concerning the military departments. The amendment to section 646 of title 14 follows the form of those contained in the bill with reference to the Army, Navy, and Air Force. It also provides that the limitation on claims authority in section 646 of title 14 be raised from \$25,000 to the more realistic sum of \$100,000.

As has been noted in this report in commenting on the 1960 amendments to the Suits in Admiralty Act, section 9 (46 U.S.C. § 749) of the Suits in Admiralty Act providing for arbitration, compromise, or settlement of claims, still contains language which limits the authority to settle admiralty claims to departments or corporations "having control of the possession or operation of any merchant vessel." At a hearing on the legislation in the 91st Congress, the Justice Department witness observed that this limitation has a similar effect as those described in connection with the sections in titles 10 and 14 relating to the military departments and the Coast Guard in that the authority is tied to claims arising in connection with vessels and does not appear to extend to admiralty claims for damage associated with property or personnel. This is the reason that it is recommended that section 9 of the Suits in Admiralty Act (41 Stat. 527; 46 U.S.C. 749) be amended by striking out the words "having control of the possession or operation of any merchant vessel."

In the 91st Congress, in recommending this amendment to section 9 of the Suits in Admiralty Act (46 U.S.C. § 749), the Department of Justice noted that this is the section which provides basic authority for administrative settlement of admiralty claims by other departments of Government. While the section specifically authorizes the settlement of claims in which suit might be brought under sections 2, 4, and 10 of that act, it can only be exercised by agencies having control of the possession or operation of a merchant vessel. One department restricted in this manner in the Department of Agriculture when it is barred from settling a claim relating to the cargo of a vessel even though the claim could give rise to a suit under section 2 of the Suits in Admiralty Act. At a hearing on February 26, 1970, the Justice Department witness pointed out that civilian departments such as the Department of Agriculture ship cargo and perform services which can give rise to claims payable under the Suits in Admiralty Act. Accordingly, the committee notes that the same need exists for the elimination of the restrictive language in the general settlement authority of section 9 of that act as there is for the amendments providing parallel authority in sections in titles 10 and 14 concerning the settlement of admiralty claims by the military departments and the Coast Guard.

The executive communication observed that prior to the 1960 amendment of the Suits in Admiralty Act, a limited amount of settlement authority existed under the tort claims provisions of title 28. This was removed when the act was amended since section 2680 of title 28 expressly bars claims for which a remedy is provided by the Suits in Admiralty Act. The tort claims administrative settlement authority at that time was limited to claims of \$2,500 or less and apparently existed only because of the failure to include language in the Suits in Admiralty Act providing full jurisdiction over admiralty actions.

This deficiency was remedied by the 1960 amendment. As has been stated, the committee views the amendments provided in this bill as a logical parallel to the 1960 amendment.

As has been noted in the analysis of the bill, H.R. 8549, also provides for amendments to sections of title 10 and section 646 of title 14 providing for the settlement of claims for towage and salvage services. Present law authorizes the Secretary of a military department and the department in which the Coast Guard is operating to settle a claim against the United States, within certain monetary limits, for compensation for towage and salvage service rendered to a vessel of his department, but not for such service to property other than a vessel (10 U.S.C. §§ 4802, 7622, 9802; 14 U.S.C. § 646). When this settlement authority was enacted in 1944, legal liability for salvage and towage services extended only to those services rendered to vessels. Developments during the intervening years indicate a trend to permit salvage awards on a broader scope. The amendment in this bill would care for these developments in the salvage law by authorizing the Secretary to settle claims for towage and salvage service rendered either to a vessel or to other property under the jurisdiction of his department. It is intended that this provision will not change the existing practice whereby the Commander, Military Sealift Command, settles and pays salvage claims against military Government cargo shipped in ocean transportation.

At the hearing in 1970, the witness in behalf of the Air Force commented on the fact that the present provisions do not permit the payment of salvage claims by the Air Force for the salvage of property of that Department which may be the subject of salvage. One example cited at the hearing was one of drone aircraft which may come down in the ocean and be found by fishermen. The committee was also advised that claims have been made for other properties that have been jettisoned from aircraft such as tip tanks or cargo.

The bill provides for similar amendments to sections 4804, 7365, and 9804 of title 10 concerning salvage claims asserted by the United States for salvage services performed by a military department. Here again the amendment is to provide for the settlement of salvage claims for salvage services rendered for other property as well as vessels. This, of course, is a similar provision to that proposed as amendments to the three sections concerning salvage against the United States. This is accomplished by eliminating a restriction that the Secretaries would be authorized to settle claims "for any vessel". This deletion broadens the authority of the Secretary of a military department to settle such claims.

The bill provides for amendments to section 4804 and 9804 authorizing the Secretaries of the Army or the Air Force to delegate his authority to settle claims of the United States for salvage service performed by his department when the amount to be received is less than \$10,000. This is accomplished by designating the present language of the sections, as amended, as subsection (a) and adding a new subsection (b) granting authority to the respective Secretaries to delegate this authority in this manner. The executive communication observes that the Secretary of the Navy presently has the authority to designate another person to settle this type of a claim. Since the Secretary of the Army and the Secretary of the Air Force do not have the statutory

authority to delegate this settlement function, the amendments to the two sections will grant this authority as defined in the amendment.

The proposed legislation would also delete from the affected Army and Air Force settlement provisions the present wording to the effect that the settlement authority of the Secretary concerned is under the direction of the Secretary of Defense. The Secretary of Defense has this authority without specific provision in these sections. Elimination of the wording, therefore, does not lessen the authority of the Secretary of Defense. There is no such wording in the Department of the Navy provisions, and in practice the Departments of the Army, Navy, and Air Force coordinate their admiralty policies.

The executive communication pointed out that the amendment to section 646 of title 14, which would concern the admiralty claims settlement authority of the Secretary of the department in which the Coast Guard is operating from \$25,000 to the more realistic sum of \$100,000. This would reduce the number of claims which must presently be certified to Congress for appropriations in order to make settlement.

The executive communication commented upon the cost and budget implications of the amendments provided in this bill. While the additional authority for administrative settlement will result in increased settlement of administrative claims which will, of course, be reflected in increased costs to the department concerned, the Navy pointed out that any such increase in settlement costs will be more than offset in total costs to the Government by savings in cost of litigation and payment of judgment amounts. As has been noted in this report, one of the purposes of provision for administrative determination of admiralty claims at an initial stage, is to provide the Government and the parties involved the opportunity to settle admiralty matters prior to litigation and thereby avoid the costs and added expenses of protracted court proceedings. The committee agrees that there is a clearly defined need for the amendments provided in this bill and recommends that the bill be considered favorably.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., May 11, 1971.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is forwarded herewith a draft of proposed legislation "To amend title 10, United States Code, to broaden the authority of the Secretaries of the military departments to settle certain admiralty claims administratively, and for other purposes."

This proposal is part of the Department of Defense Legislative Program for the 92d Congress. The Office of Management and Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this proposal for the consideration of Congress.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to provide the Secretary of each military department and the department in which the Coast Guard is operating with authority to settle admiralty claims for damages

caused by personnel or property of his department, other than and in addition to damages caused by vessels. The legislation would also authorize each Secretary to settle claims for salvage and towage of property, other than and in addition to vessels, under the jurisdiction of his department. Further, the legislation would enable the Secretary of the Army and the Secretary of the Air Force to delegate their authority to settle affirmative claims for salvage services performed by their departments, bringing their statutory authority in this area into substantial conformity with the authority of the Secretary of the Navy. The legislation would also expand the admiralty claims settlement authority available to other departments under section 9 of the Suits in Admiralty Act, chapter 95, as amended, (46 U.S.C. 749) to include departments not having control of the possession and operation of merchant vessels.

Present law authorizes the Secretary of a military department and the department in which the Coast Guard is operating to settle a claim against the United States, within certain monetary limits, for damage caused by a vessel of his department (10 U.S.C. 4802, 7622, 9802; 14 U.S.C. 646). He does not have authority to settle claims of an admiralty nature for damages caused by his departmental agents or employees, or caused by property of his department other than vessels. For example, damage caused by naval longshoremen to a privately owned vessel or damage caused by an Army crane to a private vessel would not come within the settlement authority of the Secretary concerned, since the damage was not caused by a vessel. Formerly, claims of this nature could be administratively settled by the military departments under Federal tort claims procedures (28 U.S.C. 2671-2680). In 1960, an amendment (section 3 of the act of September 13, 1960, P.L. 86-770 (74 Stat. 912)) to section 2 of the Suits in Admiralty Act (46 U.S.C. 742) permitted such actions to be under that act; and a claim for which a remedy is provided by that act is expressly excepted from Federal tort claims settlement authority (28 U.S.C. 2680(d)). The proposed legislation would bring within the Secretary's admiralty claims settlement authority claims based on maritime torts which were formerly, but are no longer cognizable under Federal tort claims settlement procedure.

Present law authorizes the Secretary of a military department and the department in which the Coast Guard is operating to settle a claim against the United States, within certain monetary limits, for compensation for towage and salvage service rendered to a vessel of his department, but not for such service to property other than a vessel (10 U.S.C. 4802, 7622, 9802; 14 U.S.C. 646). When this settlement authority was enacted in 1944, legal liability for salvage and towage services extended only to those services rendered to vessels. Developments during the intervening years indicate a trend to permit salvage awards on a broader scope. The proposed legislation would care for these developments in the salvage law by authorizing the Secretary to settle claims for towage and salvage service rendered either to a vessel or to other property under the jurisdiction of his department. It is intended that this provision will not change the existing practice whereby the Commander, Military Sealift Command, settles and pays salvage claims against military government cargo shipped in ocean transportation.

Under present law the Secretary of a military department may settle and receive payment of a claim by the United States for salvage services rendered by his department to a vessel (10 U.S.C. 4804, 7365, 9804). The proposed legislation would amend these sections by eliminating a restriction that the secretaries would be authorized to settle claims "for any vessel," and thus provide for the settlement of salvage services rendered for other property as well as vessels. The Secretary of the Navy may designate another person to settle these claims. The Secretary of the Army and the Secretary of the Air Force do not have statutory authority to delegate this settlement function. The proposed legislation would provide them with authority to delegate this function.

The proposed legislation would also delete from the affected Army and Air Force settlement provisions the present wording to the effect that the settlement authority of the Secretary concerned is under the direction of the Secretary of Defense. The Secretary of Defense is considered to possess this authority without specific provision in the statutes. Elimination of the wording, therefore, does not lessen the authority of the Secretary of Defense. There is no such wording in the Department of the Navy provisions, and in practice the Departments of the Army, Navy, and Air Force coordinate their admiralty policies.

The proposed legislation would also increase the admiralty claims settlement authority of the Secretary of the department in which the Coast Guard is operating from \$25,000 to the more realistic sum of \$100,000. This would reduce the number of claims which must presently be certified to Congress for appropriations in order to make settlement.

The present basic authority for admiralty claims settlements by other departments is found in section 9 of the Suits in Admiralty Act (46 U.S.C. 749), which applies only to agencies "having control of the possession or operation of any merchant vessel" and authorizes settlement only of claims "in which suit will lie under the provisions of sections 2, 4 and 10 of the act" (46 U.S.C. 742, 744 and 750). The proposed legislation would amend section 9 of the Suits in Admiralty Act by striking out the words "having control of the possession or operation of any merchant vessel" and thus broaden this admiralty claims settlement authority to include departments having claims arising under the act but not having control of the possession or operation of merchant vessels.

It is intended that the new administrative settlement authority to be provided by the legislation will be predicated strictly on legal liability. The authority will be applicable only in a case where court action could be brought and maintained.

COST AND BUDGET DATA

Enactment of the proposed legislation will result in increased settlement of admiralty claims by the military and other departments, with correspondingly increased costs to those departments. Although the number and size of additional claims under the legislation cannot be known in advance, any resulting increase in settlement costs will be

more than offset, in total costs to the Government, by savings in costs of litigation and payment of judgment amounts.

Sincerely yours,

JOHN H. CHAFFE,
Secretary of the Navy.

Enclosure: Draft bill.

A BILL To amend title 10, United States Code, to broaden the authority of the Secretaries of the military departments to settle certain admiralty claims administratively, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10, United States Code is amended as follows:

(1) The section heading for section 4802, and section 4802 (a) are amended to read as follows:

“§ 4802. Admiralty claims against the United States

“(a) The Secretary of the Army may settle or compromise an admiralty claim against the United States for—

“(1) damage caused by a vessel of, or in the service of, the Department of the Army or by other property under the jurisdiction of the Department of the Army;

“(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Army or to other property under the jurisdiction of the Department of the Army; or

“(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Army or by property under the jurisdiction of the Department of the Army.”

(2) Chapter 451 is amended by striking out the following item in the analysis:

“4802. Damage by United States vessels; towage and salvage of United States vessels.”

and inserting the following item in place thereof:

“4802. Admiralty claims against the United States.”

(3) The text of section 4804 is amended to read as follows:

“(a) The Secretary of the Army may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Army. Amounts received under this section shall be covered into the Treasury.

“(b) In any case where the amount to be received by the United States is not more than \$10,000, the Secretary of the Army may delegate his authority under subsection (a) to any person designated by him.”

(4) The text of section 7365 is amended to read as follows: “The Secretary of the Navy, or his designee, may consider, ascertain, adjust, determine, compromise, or settle and receive payment of any claim by the United States for salvage services rendered by the Department of the Navy.”

(5) Section 7622(a) is amended to read as follows:

“(a) The Secretary of the Navy may settle, or compromise, and pay in an amount not more than \$1,000,000 an admiralty claim against the United States for—

“(1) damage caused by a vessel in the naval service or by other property under the jurisdiction of the Department of the Navy;

“(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel in the naval service or to other property under the jurisdiction of the Department of the Navy; or

“(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Navy or by property under the jurisdiction of the Department of the Navy.”

(6) The section heading for section 9802, and section 9802(a) are amended to read as follows:

“§ 9802. Admiralty claims against the United States

“(a) The Secretary of the Air Force may settle or compromise an admiralty claim against the United States for—

“(1) damage caused by a vessel of, or in the service of, the Department of the Air Force or by other property under the jurisdiction of the Department of the Air Force;

“(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Air Force or to other property under the jurisdiction of the Department of the Air Force; or

“(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Air Force or by property under the jurisdiction of the Department of the Air Force.”

(7) Chapter 951 is amended by striking out the following item in the analysis:

“9802. Damage by United States vessels; towage and salvage of United States vessels.”

and inserting the following item in place thereof:

“9802. Admiralty claims against the United States.”

(8) The text of section 9804 is amended to read as follows:

“(a) The Secretary of the Air Force may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Air Force. Amounts received under this section shall be covered into the Treasury.

“(b) In any case where the amount to be received by the United States is not more than \$10,000, the Secretary of the Air Force may delegate his authority under subsection (a) to any person designated by him.”

SEC. 2. (a) The section heading for section 646, and section 646, title 14, United States Code, are revised to read as follows:

“§ 646. Admiralty claims against the United States

“(a) The Secretary may consider, ascertain, adjust, determine, compromise, or settle, and pay in an amount not more than \$100,000, an admiralty claim against the United States for—

“(1) damage caused by a vessel in the Coast Guard service or by other property under the jurisdiction of the Department in which the Coast Guard is operating;

“(2) compensation for towage and salvage services, including contract salvage, rendered to a vessel in the Coast Guard service or to other property under the jurisdiction of the Department in which the Coast Guard is operating; or

“(3) damage caused by a maritime tort committed by an agent or employee of the Department in which the Coast Guard is operating or by property under the jurisdiction of that Department.

“(b) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other law.

“(c) If a claim under this section is settled or compromised for more than \$180,000, the Secretary shall certify it to Congress.”

(b) Chapter 17 of title 14, United States Code is amended by striking out the following item in the analysis:

“646. Claims for damage occasioned by vessels.” and inserting the following item in place thereof:

“646. Admiralty claims against the United States.”

SEC. 3. Section 9 of the Act of March 9, 1920, chapter 9, as amended (41 Stat. 527, as amended; 46 U.S.C. 749) is amended by striking out the words “having control of the possession or operation of any merchant vessel.”

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill as shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE, TITLE 10—ARMED FORCES

Chapter 451.—MILITARY CLAIMS

See.

4801. Definition.

4802. [Damage by United States vessels: towage and salvage of United States vessels.] *Admiralty claims against the United States.*

1803. Admiralty claims by United States.
 1804. Salvage claims by United States.
 1805. Reports to Congress.
 1806. Settlement or compromise; final and conclusive.

1802. [Damage by United States vessels; towage and salvage of United States vessels.] Admiralty claims against the United States.

(a) [Under the direction of the Secretary of Defense, the] *The Secretary of the Army may settle or compromise [a] an admiralty claim against the United States for—*

(1) *damage caused by a vessel of, or in the service of, the Department of the Army or by other property under the jurisdiction of the Department of the Army: [; or]*

(2) *compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Army[.] or to other property under the jurisdiction of the Department of the Army; or*

(3) *damage caused by a maritime tort committed by any agent or employee of the Department of the Army or by property under the jurisdiction of the Department of the Army.*

(b) *If a claim under subsection (a) is settled or compromised for \$500,000 or less, the Secretary of the Army may pay it. If it is settled or compromised for more than \$500,000, he shall certify it to Congress.*

(c) *In any case where the amount to be paid is not more than \$10,000, the Secretary of the Army may delegate his authority under subsection (a) to any person in the Department of the Army designated by him.*

1804. Salvage claims by United States.

(a) [Under the direction of the Secretary of Defense, the] *The Secretary of the Army may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Army [for any vessel]. Amounts received under this section shall be covered into the Treasury.*

(b) *In any case where the amount to be received by the United States is not more than \$10,000, the Secretary of the Army may delegate his authority under subsection (a) to any person designated by*

Chapter 637.—SALVAGE FACILITIES

17365. Settlement of claims.

The Secretary of the Navy, or his designee, may consider, ascertain, adjust, determine, compromise, or settle and receive payment of any claim by the United States for salvage services rendered by the Department of the [Navy to any vessel].

Chapter 653.—CLAIMS

§ 7622. Admiralty claims against the United States.

(a) The Secretary of the Navy may settle, or compromise, and pay in an amount not more than \$1,000,000, [a] *an admiralty claim against the United States for—*

(1) *damage caused by a vessel in the naval service or by other property under the jurisdiction of the Department of the Navy;* [; or]

(2) *compensation for towage and salvage service, including contract salvage, rendered to a vessel in the naval service [.] or to other property under the jurisdiction of the Department of the Navy; or*

(3) *damage caused by a maritime tort committed by any agent or employee of the Department of the Navy or by property under the jurisdiction of the Department of the Navy.*

(b) If a claim under this section is settled or compromised for more than \$1,000,000, the Secretary shall certify it to Congress.

(c) In any case where the amount to be paid is not more than \$10,000, the Secretary may delegate his authority under this section to any person designated by him.

(d) Under acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other provision of law.

* * * * *

Chapter 951.—MILITARY CLAIMS

Sec.

9801. Definition.

9802. [Damage by United States vessels; towage and salvage of United States vessels.] *Admiralty claims against the United States.*

9803. Admiralty claims by United States.

9804. Salvage claims by United States.

9806. Settlement or compromise: final and conclusive.

§ 9802. [Damage by United States vessels; towage and salvage of United States vessels.] *Admiralty claims against the United States.*

(a) [Under the direction of the Secretary of Defense, the] *The Secretary of the Air Force may settle or compromise [a] an admiralty claim against the United States for—*

(1) *damage caused by a vessel of, or in the service of the Department of the Air Force [;] or by other property under the jurisdiction of the Department of the Air Force;*

(2) *compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Air Force [.] or to other property under the jurisdiction of the Department of the Air Force; or*

(3) *damage caused by a maritime tort committed by any agent or employee of the Department of the Air Force or by property under the jurisdiction of the Department of the Air Force.*

(b) If a claim under subsection (a) is settled or compromised for \$500,000 or less, the Secretary of the Air Force may pay it. If it is settled or compromised for more than \$500,000, he shall certify it to Congress.

(c) In any case where the amount to be paid is not more than \$10,000, the Secretary of the Air Force may delegate his authority

under subsection (a) to any person in the Department of the Air Force designated by him.

§ 9804. Salvage claims by United States.

【Under the direction of the Secretary of Defense, the】 (a) *The Secretary of the Air Force may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Air Force [for any vessel]. Amounts received under this section shall be covered into the Treasury.*

(b) *In any case where the amount to be received by the United States is not more than \$10,000, the Secretary of the Air Force may delegate his authority under subsection (a) to any person designated by him.*

UNITED STATES CODE, TITLE 14, COAST GUARD

Chapter 17.—ADMINISTRATION

646. 【Claims for damages occasioned by vessels.】 *Admiralty claims against the United States.*

646. 【Claims for damages occasioned by vessels.】 *Admiralty claims against the United States.*

【(a) The Secretary of the Treasury may consider, ascertain, adjust, determine, compromise, or settle claims for damages caused by vessels in the Coast Guard service, and for compensation for towage and salvage services, including contract salvage, rendered to such vessels, and pay the amount of any claim so determined, compromised, or settled, and upon acceptance of such payment by the claimant, and not until then, such determination, settlement, or compromise of such claim shall be final and conclusive for all purposes, any law to the contrary notwithstanding. This section, as respects the determination, compromise, settlement, and payment of claims, shall be supplementary to, and not in lieu of, all other provisions of law authorizing consideration, adjustment, determination, settlement, and payment of claims. No claim in excess of \$3,000, which accrued prior to September 8, 1939, shall be considered hereunder. All payments of claims made under this section shall be paid out of Coast Guard appropriations. The payment of any claim on which a net amount exceeding \$25,000 is determined to be due from the United States, or which is compromised or settled at a net amount exceeding \$25,000 payable by the United States, is not authorized by this section, and all claims determined, compromised, or settled hereunder at a net amount exceeding \$25,000 payable by the United States shall be certified by the Secretary of the Treasury to the Congress.】

(a) *The Secretary may consider, ascertain, adjust, determine, compromise, or settle, and pay in an amount not more than \$100,000, an*

admiralty claim against the United States for—

(1) damage caused by a vessel in the Coast Guard service or by other property under the jurisdiction of the Department in which the Coast Guard is operating;

(2) compensation for towage and salvage services, including contract salvage, rendered to a vessel in the Coast Guard service or to other property under the jurisdiction of the Department in which the Coast Guard is operating; or

(3) damage caused by a maritime tort committed by any agent or employee of the Department in which the Coast Guard is operating or by property under the jurisdiction of that Department.

(b) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other law.

(c) If a claim under this section is settled or compromised for more than \$100,000, the Secretary shall certify it to Congress.

* * * * *

THE ACT OF MARCH 9, 1920, CHAPTER 95, SECTION 9, 41 STAT. 527
(46 U.S.C. 749)

SEC. 9. That the Secretary of any department of the Government of the United States, or the United States Shipping Board, or the board of trustees of such corporation [having control of the possession or operation of any merchant vessel] are, and each hereby is, authorized to arbitrate, compromise, or settle any claim in which suit will lie under the provisions of sections 2, 4, 7, and 10 of this Act.